

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

ASHTON WHITAKER, a minor, by his  
mother and next friend, MELISSA  
WHITAKER,

Plaintiff,

v.

KENOSHA UNIFIED SCHOOL DISTRICT  
NO. 1 BOARD OF EDUCATION and SUE  
SAVAGLIO-JARVIS, in her official capacity  
as Superintendent of the Kenosha Unified  
School District No. 1,

Defendants.

Civ. Action No. 2:16-cv-00943-PP  
Judge Pamela Pepper

**PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff Ashton (“Ash”) Whitaker, by and through his mother and next friend, Melissa Whitaker, moves this Court to enter a preliminary injunction against Defendants Kenosha Unified School District No. 1 Board of Education and Sue Savaglio-Jarvis, in her official capacity as Superintendent of the Kenosha Unified School District No. 1 (the “District”). Plaintiff, who is a transgender boy, has suffered and continues to suffer irreparable harm based on Defendants’ discriminatory refusal to permit him to use boys’ restrooms at school under the threat of disciplinary consequences, as well as the repeated use by District administrators and staff of Plaintiff’s female birth name and female pronouns (*i.e.*, she, her) when addressing or referring to Plaintiff.

Through this motion, Plaintiff requests that this Court enjoin Defendants and their employees, agents, and representatives, by the beginning of the 2016-2017 school year on

September 1, 2016, or as soon thereafter is reasonably practicable, and thereafter during the pendency of this litigation, from:

(1) enforcing against Plaintiff any policy, practice, or custom of the District and/or the District's George Nelson Tremper High School that denies Plaintiff access to boys' restrooms at school and school-sponsored events;

(2) taking any formal or informal disciplinary action against Plaintiff for using boys' restrooms at school and school-sponsored events;

(3) using, or causing or permitting to be used by District employees, Plaintiff's female birth name and female pronouns when addressing Plaintiff or referring to Plaintiff in front of other students or District personnel; and

(4) taking any other action that would reveal Plaintiff's transgender status to others at school, including through the use of any visible markers or identifiers (*e.g.*, wristbands, stickers) issued by District personnel to Plaintiff and other transgender students.

In support of this motion, Plaintiff submits the accompanying memorandum of law and the following exhibits:

Ex. 1 – Declaration of Ashton Whitaker

Ex. 2 – Declaration of Dr. Stephanie L. Budge, Ph.D.

Ex. 3 – Declaration of Dr. R. Nicholas Gorton, M.D.

Ex. 4 – Declaration of Melissa Whitaker

Ex. 5 – Declaration of Jenifer McGuire, Ph.D.

Ex. 6 – U.S. Department of Education & U.S. Department of Justice, Dear Colleague Letter on Transgender Students (May 13, 2016)

Ex. 7 – Declaration of Tim Kenney

Ex. 8 – Declaration of Dr. Bryan Davis, Ph.D.

Ex. 9 – Declaration of Judy Chiasson, Ph.D.

Ex. 10 – U.S. Department of Education, *Examples of Policies and Emerging Practices for Supporting Transgender Students* (May 2016)

Plaintiff requests that the Court enter the requested preliminary injunction by the beginning of the new school year on September 1, 2016, to avoid the significant educational, psychological, and physical harms to Plaintiff that he will suffer if he cannot obtain the relief from the District's discriminatory policies, practices, or customs, as specified above, by the beginning of the new school year. Plaintiff therefore requests an expedited briefing schedule and hearing on this motion.

Based on the foregoing, Plaintiff respectfully moves this Court to grant this motion.

Dated: August 15, 2016

Respectfully submitted,

Ilona M. Turner\*  
Alison Pennington\*  
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/s Joseph J. Wardenski  
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\* Application for admission to this Court to follow

\*\* Application for admission to this Court pending